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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,620	03/17/2004	Richard D. Stackenwalt	0306	4780

112 7590 02/08/2007
ARMSTRONG WORLD INDUSTRIES, INC.
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EXAMINER

GILBERT, WILLIAM V

ART UNIT	PAPER NUMBER
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3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/802,620

Applicant(s)

STACKENWALT ET AL.

Examiner

William V. Gilbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This is a First Action on the Merits. Claims 1-19 are pending as set forth below.

Information Disclosure Statement

1. The information disclosure statement filed 21 November 2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because PCT WO 03/008729 has drawings that appear to be relevant, but are of such quality that the Examiner is unable to interpret them. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 14 and 15 recites the limitation "the at least one mounting member receiving slot" in Claim 14, line 12 and Claim 15, line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kerr (U.S. Patent No. 4,571,897).

Claim 1: Kerr discloses a flexible panel (Figure 6, element 122) having an edge strip (138) cooperating with an edge portion

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of the panel and a mounting member receiving area (142) and a mounting member (128) cooperating with the strip.

Claim 2: the mounting member (128) is a biasing member extending from the receiving area (142) and cooperating with the panel (122).

Claim 3: the length of the biasing member can vary and the biasing member can allow the panel to be retained in different stressed positions.

Claim 4: the mounting member (128) is a support member extending from the mounting member receiving area (142) and cooperates with the flexible panel (122).

Claim 5: the strip (138) has a panel receiving recess (146) extending from an edge of the strip, having opposite walls (146, proximate 142), the walls spaced apart at a distance slightly larger than the thickness of the panel (122).

Claim 6: the panel receiving recess (146) extends the entire length of the strip (Figure 4, generally).

Claim 9: an arcuate channel (142) is provided in the strip and spaced from the panel receiving recess and positioned proximate to an edge of the strip.

Claim 10: a longitudinal slot (148) extends from the channel (142) to the edge of the strip and is dimensioned so the

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spacing between side surfaces of the slot is less than the diameter of the channel.

Claim 11: an enlarged receiving cavity (140, 141) proximate the mounting member receiving area (142) and intersecting the slot (148).

Claim 12: at least one mounting member receiving slot (127) provided in the mounting member receiving area (142) and extending from the edge of the strip to the arcuate channel (142), the longitudinal axis of the mounting member receiving slot (taken from the direction of 148 to 127) is perpendicular to the longitudinal axis of the arcuate channel (142).

Claim 13: a mounting cylinder (128) is attached to an end of the mounting member (128), and the diameter of the cylinder is less than the diameter of the arcuate channel (142).

Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Dohet (U.S. Patent No. 4,433,700).

Claim 18: Dohet discloses engaging a first strip (23) with a first edge (26) of a flexible panel (24), the first strip having a first mounting member receiving area (Figure 11, element 27), engaging a second strip (22) with a second edge (29) of the flexible panel, the second strip having a second mounting member receiving area (28), inserting a biasing member

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(62) into the first mounting receiving area, flexing the panel and inserting the biasing member into the second mounting member (28) and allowing the panel (24) to return to an unflexed condition, the biasing member cooperates with the flexible panel to prevent the panel from returning to an unflexed condition.

Claim 19: Dohet discloses inserting a support member (Figure 19, element 69) into the first mounting member (see Figure 14, where Figure 19 occurs at the location of the first mounting receiving area) and attaching the support member (69) to a primary building structure (Figure 14).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr in view of Motro (U.S. Publication 2003/0159372).

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Claim 7: Kerr teaches the claimed invention including attachment of the panel (122) to the mounting member (128), but Kerr does not teach the use of tape. Motro discloses the use of dual sided adhesive tape (paragraph 33) to attach a panel. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to further use a double sided adhesive as in Motro with the panel in Kerr because it is well known in the art to use adhesives to form a more secure seal and prevent water leakage.

Claim 8: Kerr in view of Motro disclose the claimed invention except for a removable cover on the tape. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have a removable cover on double-sided adhesives to preserve the adhesive until one is ready to use it.

Allowable Subject Matter

5. **Claim 14** appears allowable over the prior art of record, however it is subject to further review upon clarification of the 35 U.S.C. §112 rejection, above.

Claims 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

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independent form including all of the limitations of the base claim and any intervening claims. As claims 15-17 depend from Claim 14, these claims will be subject to further analysis once the 35 U.S.C. §112 rejection of Claim 14 is clarified.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571.272.6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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05 Feb 07

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